

Town Holdings Bill.

MEMORANDUM.

The Bill is not retrospective, but any agreement inconsistent with its provisions is declared null and void.

The landlord is protected in respect of any benefit allowed or breach of covenant, and may obtain power from the court to charge his estate with the amount of compensation.

The tenant claiming compensation must give at least two months' notice of his intention, and the amount payable may either be agreed or settled by reference, according to the Arbitration Act, 1889, or, in case of dispute, by a referee to be appointed by the Local Government Board. The tenant's property in fixtures, machinery, &c., is protected.

This Bill carries out the recommendation made in the final report of the Town Holdings Committee, that compensation should be given for improvements in certain cases, as follows:—"But with regard to future contracts of tenancy the Committee feel that no injustice would be involved in such an alteration of the law as would entitle the tenant of trade or business premises on the expiration of his tenancy to compensation for such improvements as he may have *bonâ fide* made for the purpose of carrying on his trade or business, and as may have added to the permanent letting value of the premises."

The procedure adopted is taken from the Agricultural Holdings Act, 1883.

Town Holdings Bill.

ARRANGEMENT OF CLAUSES.

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Classes.

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SCHEDULE.

A

B I L L

TO

Give Compensation to occupying Tenants of Town Holdings A.D. 1901.
for beneficial Improvements.

WHEREAS it is expedient to amend the law so as to give to certain occupying tenants compensation for beneficial improvements to their holdings:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited for all purposes as the Town Holdings Act, 1901.

2. This Act shall come into operation on the *first day of September one thousand nine hundred and one*, which date is herein-after referred to as the commencement of this Act. Commencement of Act.

3. In this Act the following words and expressions shall have the interpretations and meanings in this section assigned to them respectively, unless there be something in the subject or context repugnant to such construction (that is to say):— Interpretation of terms.

"Holding" includes any messuage, dwelling-house, shop, cottage, chapel, or other building, and any buildings, yard, garden, pleasure ground, or other piece of land used in connexion therewith, held in pursuance of a lease as defined by this Act, so that such buildings, yard, garden, pleasure ground, or other piece of land do not exceed three acres in extent:

"Contract of tenancy" means a letting of or agreement for the letting of premises for a term of years, or for lives, or for lives and years, or from year to year:

A tenancy from year to year under a contract of tenancy current at the commencement of the Act shall for the purposes of this Act be deemed to continue to be a tenancy under a contract of tenancy current at the commencement of this

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A.D. 1901.

Act until the first day on which either the landlord or tenant of such tenancy could, the one by giving notice to the other immediately after the commencement of this Act, cause such tenancy to determine, and on and after such day as aforesaid shall be deemed to be a tenancy under a contract of tenancy beginning after the commencement of this Act :

"Determination of tenancy" means the cesser of a contract of tenancy by reason of effluxion of time, or from any other cause :

"Landlord" in relation to a holding means any person for the time being entitled to receive the rents and profits of any holding :

"Tenant" means the holder of premises under a landlord for a term of years, or for lives, or for lives and years, or from year to year :

"Tenant" includes the executors, administrators, assigns, legatees, devisees, or next-of-kin, husband, guardian, committee of the estate or trustees in bankruptcy of a tenant, or any person deriving title from a tenant; and the right to receive compensation in respect of any improvement made by a tenant shall enure to the benefit of such executors, administrators, assigns, and other persons as aforesaid :

"Holding" means any premises held by a tenant :

"Occupying tenant" means any person living in or carrying on business in or on the occupying tenancy who either—

(a) holds as lessee under a lease ;

(b) holds a life lease ;

(c) has by himself or partners held and made use of the occupancy continuously with or without a lease for at least *twenty years* ;

(d) has succeeded his or her father, mother, husband, wife, brother, sister, or partner in the occupation with or without a lease when the successive tenure has existed for at least *years* ;

(e) in case of business premises has purchased the business when such business has been carried on in or on the occupying tenancy for at least *twenty years* :

"Occupier" means a person residing in or carrying on business in or on a holding without regard to the length of his tenancy :

"Person" to include women.

4. Subject as in this Act mentioned, where the occupying tenant has made on his occupying tenancy any improvement comprised in the schedule hereto, he shall on and after the commencement of this Act be entitled on quitting his tenancy at the determination of a tenancy to obtain from the landlord as compensation under this Act for such improvement such sum as fairly represents the value of the improvement to be ascertained as herein-after mentioned.

A.D. 1901.

Compensation for improvements.

5. Compensation shall not be payable in respect of improvements executed before the commencement of this Act.

Improvements executed before the commencement of Act.

6. Compensation under this Act shall be payable in respect of any improvement mentioned in the schedule hereto, and executed after the commencement of this Act, unless the landlord, or his agent duly authorised in that behalf, has previously to the execution of the improvement and after the passing of this Act refused in writing the making of such improvement, and the umpire, as herein-after mentioned, shall have certified that such refusal was not unreasonable on the part of the landlord.

Improvements executed after the commencement of this Act.

7. Compensation under this Act shall not be payable in respect of any improvement mentioned in the schedule hereto, and executed after the commencement of this Act, unless the occupying tenant has, not more than *three months* and not less than *two months* before beginning to execute such improvement, given to the landlord, or his agent duly authorised in that behalf, notice in writing of his intention so to do, and of the manner in which he proposes to do the intended work, and upon such notice being given the landlord and occupying tenant may agree on the terms as to compensation or otherwise on which the improvement is to be executed; and, in the event of any such agreement being made, any compensation payable thereunder shall be deemed to be substituted for compensation under this Act, or the landlord may, unless the notice of the occupying tenant is previously withdrawn, undertake to execute the improvement himself, and may execute the same in any reasonable and proper manner which he thinks fit, and charge the occupying tenant with a sum not exceeding *five pounds* per centum per annum on the outlay incurred in executing the improvement, or not exceeding such annual sum payable for a period of *twenty years* as will repay such outlay in the said period with interest at the rate of *five per centum* per annum, such annual sum to be recoverable as rent. In default of any such agreement or undertaking, and also in the event of the landlord failing to comply with his undertaking within a reasonable time, the occupying tenant

Compensation for improvements mentioned in schedule.

A.D. 1901. may execute the improvement himself, and shall in respect thereof be entitled to compensation under this Act.

Regulation
as to com-
pensation for
improve-
ments.

8. In the ascertainment of the amount of the compensation under this Act payable to the occupying tenant in respect of any improvement, there shall be taken into account in reduction 5 thereof—

(a.) Any benefit which the landlord has given or allowed to the occupying tenant in consideration of the occupying tenant executing the improvement.

(b.) Any sums due to the landlord in respect of rent or in respect 10 of any breach of covenant committed or permitted by the occupying tenant. Also, any rates or taxes due or becoming due in respect of the occupying tenancy to which the occupying tenant is liable as between him and the landlord.

There shall be taken into account in augmentation of the tenant's 15 compensation—

(c.) Any sum due to the occupying tenant for compensation in respect of a breach of covenant or other agreement connected with a contract of tenancy and committed by the landlord.

Notice of
intended
claim.

9. A tenant claiming compensation under this Act shall, two 20 months at least before the determination of the tenancy, give notice in writing to the landlord of his intention to make such claim.

Where a tenant gives such notice, the landlord may, before the determination of the tenancy, or within *fourteen days* thereafter, give a counter-notice in writing to the tenant of his intention to 25 make a claim in respect of any waste or any breach of covenant or other agreement.

Every such notice and counter-notice shall state, as far as reasonably may be, the particulars and amount of the intended claim. 30

Compensa-
tion agreed
or settled by
reference.

10. The landlord and the tenant may agree on the amount and mode and time of payment of compensation to be paid under this Act.

If in any case they do not so agree, the difference shall be settled by a reference. 35

Appointment
of referee.

11. Where there is a reference under this Act, a referee shall be appointed in accordance with the terms and provisions of the Arbitration Act, 1889, and for that purpose notice in writing by the tenant to the landlord or by the landlord to the tenant of his desire to appoint an arbitrator for a reference under this Act shall 40 be deemed to be a submission to arbitration within the meaning of the said Act.

12. Provided that in case of dispute the referee shall be appointed by the Local Government Board for England.

Regulations for appointment of referee by Local Government Board. Award to give particulars.

13. The award shall not award a sum generally for compensation, but shall, so far as possible, specify—

- 5 (a) the several improvements, acts, and things in respect whereof compensation is awarded, and the several matters and things taken into account under the provisions of this Act in reduction or augmentation of such compensation;
- 10 (b) the time at which each improvement, act, or thing was executed, done, committed, or permitted;
- (c) the sum awarded in respect of each improvement, act, matter, and thing; and
- 15 (d) where the landlord desires to charge his estate with the amount of compensation found due to the tenant, the time at which, for the purposes of such charge, each improvement, act, or thing in respect of which compensation is awarded is to be deemed to be exhausted.

14. Where any money agreed or awarded to be paid for compensation, costs, or otherwise, is not paid within *fourteen days* after the time when it is agreed or awarded or ordered to be paid, it shall be recoverable, upon order made by the judge of the county court, as money ordered by a county court under its ordinary jurisdiction to be paid is recoverable.

Recovery of compensation.

15. Where a landlord or tenant is an infant without a guardian, or is of unsound mind, not so found by inquisition, the county court, on the application of any person interested, may appoint a guardian of the infant or person of unsound mind for the purposes of this Act, and may change the guardian if and as occasion requires.

Appointment of guardian.

16. Where the appointment of a person to act as the next friend of a married woman is required for the purposes of this Act, the county court may make such appointment, and may remove or change that next friend if and as occasion requires.

Provisions respecting married women.

A woman married before the commencement of the Married Women's Property Act, 1882, entitled for her separate use to demised premises, her title to which accrued before such commencement as aforesaid, and not restrained from anticipation, shall, for the purposes of this Act, be in respect of demised premises as if she was unmarried.

45 & 46 Vict. c. 75.

Where any other woman married before the commencement of the Married Women's Property Act, 1882, is desirous of doing any act under this Act in respect of the demised premises, her title to

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A.D. 1901. which accrued before such commencement as aforesaid, her husband's concurrence shall be requisite, and she shall be examined apart from him by the county court, or by the judge of the county court for the place where she for the time being is, touching her knowledge of the nature and effect of the intended act, and it shall be ascertained that she is acting freely and voluntarily.

Costs in county court. 17. The costs of proceedings in the county court under this Act shall be in the discretion of the court.

The Lord Chancellor may from time to time prescribe a scale of costs for those proceedings, and of costs to be taxed by the registrar of the court.

Power for landlord on paying compensation to obtain charge.

18. A landlord, on paying to the tenant the amount due to him in respect of compensation under this Act, or in respect of compensation authorised by this Act to be substituted for compensation under this Act, or on expending such amount as may be necessary to execute an improvement under the schedule hereto, after notice given by the tenant of his intention to execute such improvement in accordance with this Act, shall be entitled to obtain from the county court a charge on the holding, or any part thereof, to the amount of the sum so paid or expended.

The court shall, on proof of the payment or expenditure, and on being satisfied of the observance in good faith by the parties of the conditions imposed by this Act, make an order charging the holding, or any part thereof, with repayment of the amount paid or expended, with such interest, and by such instalments, and with such directions for giving effect to the charge, as the court thinks fit.

But, where the landlord obtaining the charge is not absolute owner of the holding for his own benefit, no instalment or interest shall be made payable after the time when the improvement in respect whereof compensation is paid will, where an award has been made, be taken to have been exhausted according to the declaration of the award, and in any other case after the time when any such improvement will, in the opinion of the court, after hearing such evidence (if any) as it thinks expedient, have become exhausted.

The instalments and interest shall be charged in favour of the landlord, his executors, administrators, and assigns.

The estate or interest of any landlord holding for an estate or interest determinable or liable to forfeiture by reason of his creating or suffering any charge thereon, shall not be determined or forfeited by reason of his obtaining a charge under this Act, anything in any

deed, will, or other instrument to the contrary thereof notwithstanding.

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Capital money arising under the Settled Land Act, 1882, may be applied in payment of any moneys expended and costs incurred by a landlord under or in pursuance of this Act in or about the execution of any improvement mentioned in the first or second parts of the schedule hereto, as for an improvement authorised by the said Settled Land Act; and such money may also be applied in discharge of any charge created on a holding under or in pursuance of this Act in respect of any such improvement as aforesaid, as in discharge of an incumbrance authorised by the said Settled Land Act to be discharged out of such capital money.

45 & 46 Vict.
c. 38.

19. The sum charged by the order of a county court under this Act shall be a charge on the holding, or the part thereof charged for the landlord's interest therein, and for all interests therein subsequent to that of the landlord; but so that the charge shall not extend beyond the interest of the landlord, his executors, administrators, and assigns, in the tenancy where the landlord is himself a tenant of the holding.

Incidence of
charge.

20. Where the landlord is a person entitled to receive the rents and profits of any holding as trustee, or in any character otherwise than for his own benefit, the amount due from such landlord in respect of compensation under this Act, or in respect of compensation authorised by this Act to be substituted for compensation under this Act, shall be charged and recovered as follows and not otherwise; (that is to say,)

Provision in
case of
trustee.

(1.) The amount so due shall not be recoverable personally against such landlord, nor shall he be under any liability to pay such amount, but the same shall be a charge on and recoverable against the holding only.

(2.) Such landlord shall, either before or after having paid to the tenant the amount due to him, be entitled to obtain from the county court a charge on the holding to the amount of the sum required to be paid or which has been paid, as the case may be, to the tenant.

(3.) If such landlord neglect or fail within one month after the tenant has quitted his holding to pay to the tenant the amount due to him, then after the expiration of such one month the tenant shall be entitled to obtain from the county court in favour of himself, his executors, administrators, and assigns, a charge on the holding to the amount of the sum due to him

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and of all costs properly incurred by him in obtaining the charge or in raising the amount due thereunder.

- (4.) The court shall on proof of the tenant's title to have a charge made in his favour make an order charging the holding with payment of the amount of the charge, including costs, in like manner and form as in case of a charge which a landlord is entitled to obtain.

Advance
made by a
company.

21. Any company now or hereafter incorporated by Parliament, and having power to advance money for the improvement of land, may take an assignment of any charge made by a county court under the provisions of this Act, upon such terms and conditions as may be agreed upon between such company and the person entitled to such charge; and such company may assign any charge so acquired by them to any person or persons whomsoever.

Tenant's
property in
fixtures,
machinery,
&c.

22. Where after the commencement of this Act a tenant affixes to his holding any machinery or other fixture, or erects any building for which he is not under this Act or otherwise entitled to compensation, and which is not so affixed or erected in pursuance of some obligation in that behalf or instead of some fixture or building belonging to the landlord, then such fixture or building shall be the property of and be removable by the tenant before or within a reasonable time after the termination of the tenancy.

Provided as follows:—

1. Before the removal of any fixture or building the tenant shall pay all rent owing by him, and shall perform or satisfy all other his obligations to the landlord in respect to the holding:
2. In the removal of any fixture or building the tenant shall not do any avoidable damage to any other building or other part of the holding:
3. Immediately after the removal of any fixture or building the tenant shall make good all damage occasioned to any other building or other part of the holding by the removal:
4. The tenant shall not remove any fixture or building without giving one month's previous notice in writing to the landlord of the intention of the tenant to remove it:
5. At any time before the expiration of the notice of removal the landlord, by notice in writing given by him to the tenant, may elect to purchase any fixture or building comprised in the notice of removal, and any fixture or building thus elected to be purchased shall be left by the tenant, and shall become the property of the landlord,

who shall pay the tenant the fair value thereof to an incoming tenant of the holding; and any difference as to the value shall be settled by a reference under this Act, as in case of compensation (but without appeal).

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23. Where lands are assigned or secured as the endowment of a see, the powers by this Act conferred on a landlord shall not be exercised by the archbishop or bishop, in respect of those lands, except with the previous approval in writing of the Estates Committee of the Ecclesiastical Commissioners for England.

Landlord,
archbishop
or bishop.

24. Where a landlord is incumbent of an ecclesiastical benefice, the powers by this Act conferred on a landlord shall not be exercised by him in respect of the glebe land or other land belonging to the benefice, except with the previous approval in writing of the patron of the benefice, that is, the person, officer, or authority who, in case the benefice were vacant, would be entitled to present thereto, or of the Governors of Queen Anne's Bounty (that is, the Governors of the Bounty of Queen Anne for the Augmentation of the Maintenance of the Poor Clergy).

Landlord,
incumbent
of benefice.

In every such case the Governors of Queen Anne's Bounty may, if they think fit, on behalf of the incumbent, out of any money in their hands, pay to the tenant the amount of compensation due to him under this Act; and thereupon they may, instead of the incumbent, obtain from the county court a charge on the holding, in respect thereof, in favour of themselves.

Every such charge shall be effectual, notwithstanding any change of the incumbent.

25. The powers by this Act conferred on a landlord in respect of charging the land shall not be exercised by trustees for ecclesiastical or charitable purposes, except with the previous approval in writing of the Charity Commissioners for England and Wales.

Landlord,
charity
trustees, &c.

26. A landlord, whatever may be his estate or interest in his holding, may give his consent, make any agreement, or do or have done to him any act in relation to improvements in respect of which compensation is payable under this Act which he might give or make or do or have done to him if he were, in the case of an estate of inheritance, owner thereof in fee, and in the case of a leasehold, possessed of the whole estate in the leasehold.

Provision as
to limited
owners.

27. When by any Act of Parliament, deed, or other instrument, a lease of a holding is authorised to be made, provided that the best rent, or reservation in the nature of rent, is by such lease reserved, then, whenever any lease of a holding is, under such

Provision in
case of
reservation
of rent.

A.D. 1801. authority, made to the tenant of the same, it shall not be necessary, in estimating such rent or reservation, to take into account against the tenant the increase (if any) in the value of such holding arising from any improvements made or paid for by him on such holding.

Set off of compensation against rent.

28. Where the compensation due under this Act, or under any custom or contract, to a tenant has been ascertained before the landlord distrains for rent due, the amount of such compensation may be set off against the rent due, and the landlord shall not be entitled to distrain for more than the balance.

Exclusion of certiorari.

29. An order of the county court or of a court of summary jurisdiction under this Act shall not be quashed for want of form, or be removed by certiorari or otherwise into any superior court.

Avoidance of agreement inconsistent with Act.

30. Any contract, agreement, or covenant made by a tenant, by virtue of which he is deprived of his right to claim compensation under this Act in respect of any improvement mentioned in the schedule hereto (except an agreement providing such compensation as is by this Act permitted to be substituted for compensation under this Act), shall, so far as it deprives him of such right, be void both at law and in equity.

Right of tenant in respect of improvement purchased from outgoing tenant.

31. Where an incoming tenant has, with the consent in writing of his landlord, paid to an outgoing tenant any compensation payable under or in pursuance of this Act in respect of the whole or part of any improvement, such incoming tenant shall be entitled on quitting the holding to claim compensation in respect of such improvement or part in like manner, if at all, as the outgoing tenant would have been entitled if he had remained tenant of the holding, and quitted the holding at the time at which the incoming tenant quits the same.

Provision as to change of tenancy.

32. A tenant who has remained in his holding during a change or changes of tenancy shall not thereafter on quitting his holding at the determination of a tenancy be deprived of his right to claim compensation in respect of improvements by reason only that such improvements were made during a former tenancy or tenancies, and not during the tenancy at the determination of which he is quitting.

Restriction in respect of improvements by tenant about to quit.

33. Subject as in this section mentioned, a tenant shall not be entitled to compensation in respect of any improvements, as defined by this Act, begun by him, if he holds from year to year, within one year before he quits his holding, or at any time after he has given or received final notice to quit, and, if he holds as a lessee, within one year before the expiration of his lease.

SCHEDULE.

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Such improvements bona fide made for the purpose of carrying on a business or otherwise as may have added to the permanent letting value of the premises.

- 5 Any work, outlay, benefit, improvement, or advantage executed, done, or accruing (during the occupying tenancy by the occupying tenant and his predecessors in occupancy) in, to, or upon the holding, whereby or in consequence whereof the holding would in the opinion of the arbitrator in the Act mentioned increase or augment the amount paid as rent by the occupying
- 10 tenant of the holding if the same were let for a period extending over seven years from the determination of the tenancy of the occupying tenant to a hypothetical tenant or tenants on the same terms as regards tenancy as those held or enjoyed by the occupying tenant at the time of the determination of his tenancy.

Town Holdings.

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B I L L

To give Compensation to occupying
Tenants of Town Holdings for
beneficial Improvements.

*(Prepared and brought in by
Mr. Channing, Sir Walter Pater,
Captain Norton, Mr. Everett, and Mr. Kerley.)*

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